761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: April 12, 2007

OFFICE CORRESPONDENCE

FILE NO. SH2~~164948~~ 2164739

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY ROBERT ERICKSON [redacted]
SPECIAL ENFORCEMENT BUREAU

On February 5, 2006 at about 2330 hours, Suspect Carlos Cuellar's burglary of his [redacted] house was interrupted by his [redacted] He produced a pistol, took his [redacted] hostage, and ordered his [redacted] to leave. Deputies from Pico Rivera Station responded and contained the house. When Suspect Cuellar told them via telephone that he would not leave the house, Special Enforcement Bureau and the Crisis Negotiation Team was contacted. A containment was established by SEB personnel when the team arrived. During the incident numerous containment deputies reported seeing Suspect Cuellar pacing inside the mobile home while carrying a dark colored pistol.

At approximately 0935 hours Suspect Cuellar exited the house and stayed in the carport area while holding a cordless phone. He began to pace, carrying a portable telephone in one hand. SEB Deputies Erickson, Garay, Moss, and Hackett ordered the suspect, from a position of cover behind the armored vehicle, to raise his hands and walk toward their direction. When the suspect refused, Deputy Moss fired several ARWEN rounds, striking the suspect, while Deputy Garay deployed a diversion device between the suspect and the east entrance to the mobile home to prevent him from re-entering the home. Both deputies had to partially expose themselves to deploy their devises.

Suspect Cuellar suddenly crouched down and reached into his waistband, apparently tugging at an object. Deputy Erickson, believing the suspect was about to retrieve a pistol and shoot at Deputies Moss and Garay, shot one round at the suspect from his department issued M4/M-16 rifle, striking the suspect in the head. The suspect was contained and checked by Emergency Services Detail personnel at the scene. The suspect was pronounced dead at the scene.

A blue steel "Powerline" model 617X, CO_2 dual ammo pellet gun was recovered in the bathroom of the mobile home.

On April 12, 2007, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MMP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Erikson was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Erikson in this incident were within Department Policy.

Johnny G. Jurado, Commander

JGJ:MOT:mt

TABLE OF CONTENTS

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
02-06-2006	Special Enforcement Bureau	☐	☒

Incident Information

URN: 006-01081-1511-013	Date: 02-06-2006 Time: 0935 hours
City or Station: Pico Rivera	Nature of Incident: Suspect barricades himself inside a residence and refuses to surrender. S.E.B. was called to assist. After several hours by CNT to have to suspect come outside failed, SEB introduced tear gas inside. The suspect came out and reached into his waistband. SEB Deputy believing the suspect was about to shoot fired one shot at the suspect, killing him.
Location: [redacted] Beverly Blvd., Sp.# [redacted]	

Location Type (*circle one or more*): **Backyard** (circled), Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: ____________

Lighting (*circle only one*): Darkness, **Daylight** (circled), Other, Street Lights

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 25 feet

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, **Unarmed Person** (circled), Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ____________

Initiated by (*circle only one*): **Arrest Warrant** (circled), **Call** (circled), Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
1	0	☒	☒

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Garay	Ralph		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	Moss	James		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	Hackett	Clipper		EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph	Home Ph [redacted]	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph	Home Ph [redacted]	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph	Home Ph [redacted]	

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	Ruedas	Ralph	A.	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Hansen	Phillip	C.

PSTD Use Only
SH # 2164739

Officer Involved Shooting

URN: 006-01081-1511-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
02-06-2006	1009	02-07-2006	

Employee #	Last Name	First Name	M.I
[redacted]	Key	Gregory	
[redacted]	Kuykendall	Kevin	
[redacted]	Lee	Stacy	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	UC					NN	
E#1	S#1	FR	RM	23	Y	Y	GS	HE

Officer Involved Shooting
Involved Employee Information

URN: 006-01081-1511-013

Involved Employee

E 1

Employee # [redacted]	Last Name: Erickson	First Name: Robert	M.I.
Sex: M Race: W	Rank: DS B-1	Unit Assignment: SEB	Work Assignment (Unit #, Module, etc.): SEB
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 6-00	Weight: 180		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting Suspect Information

URN: 006-01081-1511-013

Suspect Information

S 1

Last Name: Cuellar Junior	First Name: Carlos	M.I.: H
AKA Last Name:	First Name:	M.I.:

Sex: M Race: Hisp.	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone:	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 42 D.O.B. 12-03-1963	Height: 5-07 Weight: 150	FBI # [redacted]	CII # [redacted]
Booking # N/A	Primary Charge:	Secondary Charge:	
Coroner Case? ☒	Coroner Case # 2006-01024	Intoxication/Drug Usage? ☒	Substance Used: methamphetamine
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

DEPUTY INVOLVED HIT SHOOTING EVALUATION

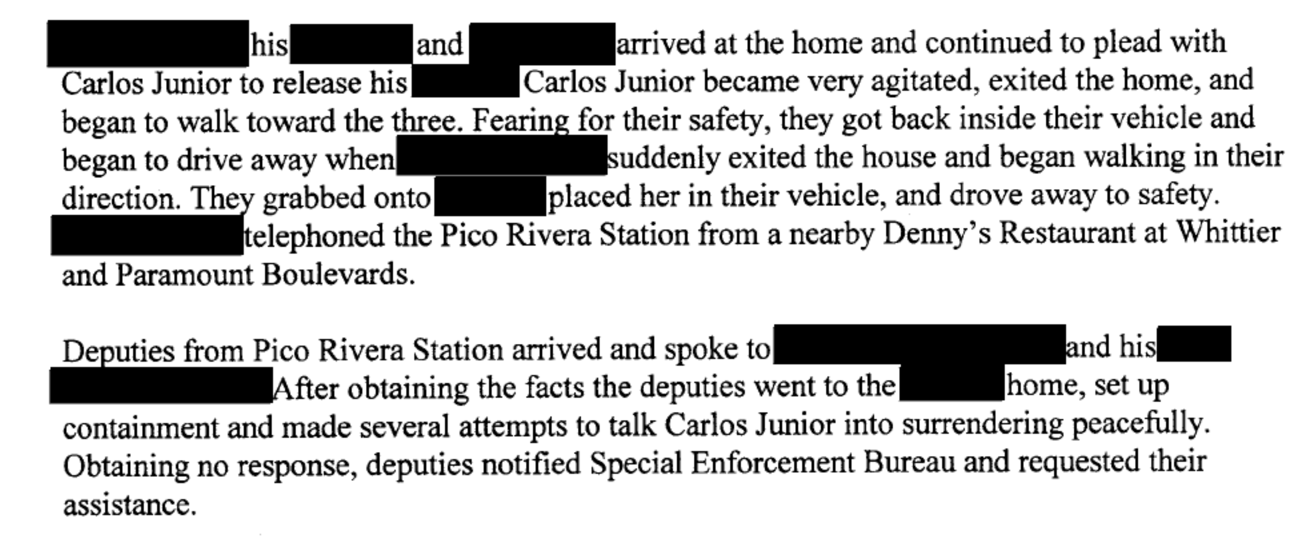
UNIT:	Special Enforcement Bureau, Office of Homeland Security
DATE:	February 6, 2006, Monday
TIME:	0935 Hours
LOCATION:	"Villa Nova Mobile Home Park", [redacted] Beverly Boulevard, Space. [redacted] Pico Rivera, CA 90660
URN#:	006-01081-1511-013
IAB#:	SH 2164739

NATURE OF INCIDENT: On February 5, 2006, at about 2330 hours, Mr. And Mrs. [redacted] returned home to discover their residence had been burglarized. [redacted] entered his home and found numerous items had been stacked by a burglar to remove from their home. [redacted] immediately suspected his [redacted] Carlos Cuellar Jr., was responsible for the burglary. [redacted] told his [redacted] to remain outside while he entered their residence. [redacted] conducted a preliminary search for the suspect and did not find him. He went outside and told [redacted] to come in and see what he believed their [redacted] had done.

When Mr. and Mrs. [redacted] walked through their home they found their [redacted] Carlos Jr. asleep or unconscious on the floor of their home. [redacted] had obtained and restraining order against his [redacted] from an earlier burglary perpetrated by Carlos Jr. and Carlos junior was in violation of the order. When [redacted] approached his [redacted] to check on his welfare, Carlos Junior suddenly awoke and retrieved a handgun secluded underneath his body. Carlos Junior pointed the weapon at his [redacted] and [redacted] told his [redacted] to allow them to leave and he could remain inside of the house Carlos Junior refused and demanded his [redacted] remain with him and his [redacted] could leave. After several minutes of negotiation, [redacted] left and [redacted] remained with her [redacted]

[redacted] drove to his [redacted] residence and told her what had occurred. [redacted] and [redacted] drove back to the [redacted] home on Beverly Boulevard. While driving back, [redacted] telephoned her [redacted] residence and spoke to her [redacted] and [redacted] Carlos Junior refused to allow his [redacted] to leave and he told his [redacted] he was sure his [redacted] called the police and they were on their way to kill him. Carlos Junior told his [redacted] he was not going to die alone in the home.

COMPLETED BY: Sergeant Larry Landreth, Internal Affairs Bureau
DATE: December 26, 2006



[redacted] his [redacted] and [redacted] arrived at the home and continued to plead with Carlos Junior to release his [redacted] Carlos Junior became very agitated, exited the home, and began to walk toward the three. Fearing for their safety, they got back inside their vehicle and began to drive away when [redacted] suddenly exited the house and began walking in their direction. They grabbed onto [redacted] placed her in their vehicle, and drove away to safety. [redacted] telephoned the Pico Rivera Station from a nearby Denny's Restaurant at Whittier and Paramount Boulevards.

Deputies from Pico Rivera Station arrived and spoke to [redacted] and his [redacted] After obtaining the facts the deputies went to the [redacted] home, set up containment and made several attempts to talk Carlos Junior into surrendering peacefully. Obtaining no response, deputies notified Special Enforcement Bureau and requested their assistance.

Personnel of the Special Enforcement Bureau arrived and the Crisis Negotiation Team(CNT) was called to respond and assist. A containment was established by SEB personnel. An operations plan was prepared and its implementation was supervised by SEB lieutenant Phillip Hansen **(Refer to Exhibit A, pages 72 - 80 for a copy of the SEB Operations Plan)**. The Crisis Negotiation Team arrived at 0511 hours and began negotiations with the suspect at 0625 hours by making telephone contact with the suspect. Numerous deputies on containment reported seeing the suspect walking inside of the mobile home with a dark colored handgun in his hand. After several hours of negotiations over the telephone, the suspect, stated he wanted to die and would shoot anyone who entered the home to arrest him. The suspect broke off any contact with the Crisis Negotiation Team.

IAB Note: Refer to Exhibit A, pages 48 - 50 for a copy of C.N.T.'s log, time-line and personnel roster.

During the negotiations by Crisis Negotiation Team(CNT), personnel from Pico Rivera Detective Bureau obtained a Ramey Warrant for the suspect, Carlos Humberto Cuellar, Jr **(Refer to Exhibit A, pages 63 - 67)**. Special Enforcement Bureau command staff confirmed the signed Ramey Warrant and set a plan in motion to arrest the suspect. Numerous announcements were made into the home by SEB personnel from their armored vehicle and CNT advised they had re-established communication with the suspect over the telephone. CNT personnel advised the suspect was irrational, threatening, an no progress was made in gaining the suspect's surrender. A diversion device (flash-bang) was deployed into the home in an attempt to gain compliance of the suspect. When the diversion device failed to work, tear gas was introduced into three areas of the home, at 0937 hours, by SEB. Moments later, CNT advised the SEB command post the suspect was talking on the telephone and the tear gas failed to accomplish the desired outcome.

Suspect Carlos Cuellar exited the home and walked out into the carport. He began to pace, carrying a portable telephone in one hand. SEB Deputies Erickson, Garay, Moss, and Hackett ordered the suspect, from a position of cover behind the armored vehicle, to raise his hands and walk toward their direction. When the suspect refused, Deputy Moss fired several Arwen rounds striking the suspect while Deputy Garay deployed a diversion device between the suspect and the

east entrance to the mobile home to prevent him from re-entering the home. The suspect suddenly crouched down and reached into his waistband. Deputy Erickson believing the suspect was retrieving a handgun and was about to shoot at Deputies Moss and Garay, who had partially exposed themselves from behind the armored vehicle to deliver the Arwen rounds and diversion device, shot one round at the suspect from his department issued M4/M-16 rifle striking the suspect in the head. The suspect was contained and checked by Emergency Services Detail personnel at the scene. The suspect was pronounced deceased on scene.

IAB Note: For a complete time-line of the operation, refer to Exhibit A, pages 44 - 46, Operat6ions Log.

Internal Affairs Bureau was notified at 1000 hours and Sergeants Greg Key and Kevin Kuykendal, along with Lieutenant Stacy Lee responded to the command post. Upon their arrival, personnel from Homicide Bureau were investigating the deputy involved shooting.

The following summary is based on written statements from the involved deputies, witnesses' statements obtained and recorded, and statements from percipient deputies.

INVOLVED PERSONNEL:

ERICKSON, ROBERT, Deputy Sheriff #[redacted]
Special Enforcement Bureau
Office of Homeland Security Division

EMPLOYEE WORK HISTORY:

Date of Employment:	07-17-1987
Date assigned to Patrol/Custody:	[redacted]
Completed Patrol/Custody Training:	[redacted]
Date of Assignment at SEB:	12-07-1997
Prior Shooting Incident(s):	[redacted]
Prior Founded Force Incidents:	[redacted]

SUSPECT(S):

CUELLAR, CARLOS HUMBERTO JR. MH/42, DOB: 12-03-1963, Blk/Bro, 5-07/150 lbs. lbs.,[redacted]
CII:[redacted] **Main#:**[redacted] **FBI#:**[redacted]

Suspect Cuellar had a [redacted] **(Refer to Exhibit A, pages 120 through**

139 for a copy of Cuellar's criminal history).

Suspect Cuellar had both a drug addiction and mental disorder. He was a chronic user of methamphetamine and had been diagnosed as suffering from Bipolar disorder.

CIVILIAN WITNESSES:

1. [redacted] FH/65
2. [redacted] MH/62
3. [redacted] FH/40
4. [redacted] MH/40

DEPARTMENT WITNESSES:

1. Garay, Ralph, Deputy Sheriff, #[redacted]
2. Moss, James, Deputy Sheriff, #[redacted]
3. Hackett, Clipper, Deputy Sheriff, #[redacted]

INJURIES:

Suspect

Suspect Martinez sustained a fatal gunshot wound to the head. He also sustained three bruises from Arwen strikes. One below his right nipple, one on his upper right chest, and a third on his right forearm.

Deputy Personnel

No deputy personnel were injured.

WEATHER AND LIGHTING CONDITIONS:

Daylight, clear, with little or no clouds.

WEAPONS USED BY SUSPECT(S):

Suspect Carlos Cuellar was found to have a "Powerline" model 617X, Co2 dual ammo pellet gun, blue steel, Serial #[redacted] **The pellet gun was recovered inside of second bathroom of the mobile home, refer to Exhibit A, page 111.**

WEAPON(S) USED BY DEPUTY PERSONNEL:

DEPUTY ROBERT ERICKSON

Service Weapon- Colt, Model M4/M16A2E, .223 Remington caliber automatic rifle, Serial #: [redacted]

Type of Ammunition- Remington .223 caliber cartridges.
Ammunition- One round fired and twenty-three rounds in the magazine.
Shell Casings- One Remington .223 caliber cartridge was recovered from underneath the armored rescue vehicle parked in front of space #107 **(Refer to photograph in Exhibit C)**.
Distance: Approximately 25 feet
Date Employee Last Qualified: (Mobile Range):  [redacted]
Date Last Trained With Weapon:

Lab Receipt No. J762462 Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section **(Refer to Exhibit A, page 113-114)**

INVOLVED DEPUTY(S) STATEMENTS:

Deputy Robert Erickson, #[redacted] was interviewed by Homicide Bureau Detectives Dameron Peyton and Kevin Lowe on February 6, 2006, at 1320 hours. Deputy Erickson was not represented and the interview was recorded. The following is a summary of the interview.

Deputy Erickson said when he arrived at S.E.B. around 0530 hours on February 6, 2006 he was informed by desk personnel that there was a barricaded suspect in the Pico Rivera area. The Special Enforcement Bureau had been activated and was responding to the scene.

Deputy Erickson said when he arrived at the command post he was briefed as to activity leading up to the activation of the Special Weapons Team. He was told that the suspect was armed and in violation of a restraining order, possibly under the influence and threatening to kill himself or others if contacted. Deputy Erickson was deployed as a containment and arrest unit. Deputy Erickson was assigned to the "Bearcat" (Armored Rescue Vehicle) along with Deputies Ralph Garay, James Moss and Clipper Hackett. Each deputy was assigned a different specific task within their containment position. Deputy Erickson said he was assigned as the designated shooter, Deputy Garay was to give verbal commands and assist in, "hands on" apprehension of the suspect, Deputy Moss was assigned to less than lethal weapon (Arwen) and Deputy Hackett was assigned to cover and assist in hands on apprehension of the suspect. They took up a position behind their armored rescue vehicle along the east side of the mobile home, adjacent to the carport and driveway area. While in position, Deputy Erickson said he continuously obtained updates from the command post and intelligence deputies on scene regarding the suspect's activities and behavior via radio. Deputy Erickson said it appeared the suspect's behavior was becoming more erratic as he was seen frantically moving about the trailer and continually rambling about killing or being killed.

Deputy Erickson said attempts were made via telephone, taped announcements and by Deputy Garay to verbally order the suspect to exit the residence. He said all of the efforts failed to convince the suspect to surrender and come out of the home. Erickson said he saw Deputy Hackett deploy the Arwen and Deputy Garay deployed a light/sound diversionary device (flash-bang) in an effort to force Suspect Cuellar out of the mobile home so that he could be detained. Suspect Cuellar refused to exit the

residence. Erickson said Deputy Garay and rear containment deputies introduced chemical agents through the windows of the location causing Suspect Cuellar to exit the east side of the trailer. Suspect Cuellar walked toward deputies Erickson, Garay, Moss and Hackett who were secured behind their armored vehicle. Deputy Erickson said he could see Suspect Cuellar was holding a portable phone in what he believed was his left hand and his right hand was held up at approximately shoulder height. As Suspect Cuellar walked back and forth within the carport area, Deputy Garay called to Suspect Cuellar to walk forward with his hands up. Suspect Cuellar disregarded the commands and appeared to turn toward the trailer to re-enter. Deputy Erickson said in an effort to keep Suspect Cuellar outside of the residence, Deputy Moss deployed less than lethal Arwen rounds at Suspect Cuellar. Deputy Moss shot over the hood of the armored vehicle, exposing his upper torso. Deputy Garay moved partially away from the front of their armored vehicle to deploy a light/sound diversionary device in the carport area. Deputy Erickson explained in order to deploy the device, Deputy Garay had to expose a substantial portion of his body to Suspect Cuellar. Deputy Erickson said he was covering Deputies Garay and Moss as the less than lethal weapons were deployed. Suspect Cuellar walked toward the southern edge of the driveway and quickly turned away in a crouched position. Deputy Erickson said as the suspect turned, he(Erickson) saw Suspect Cuellar reach deeply into his waistband. Deputy Erickson described Suspect Cuellar's movements as very distinctive and deliberate. Deputy Erickson said Suspect Cuellar was aggressively tugging at an object in an apparent effort to retrieve a weapon. Deputy Erickson said he acted on Suspect Cuellar's actions, coupled with information Suspect Cuellar was spotted several times with a handgun inside of the home, and in conjunction with Deputies Moss and Garay being exposed to Suspect Cuellar, Deputy Robert Erickson said he feared Suspect Cuellar was about to shoot at him or his partners, and he or they would be killed, and he fired one round from his M4/M16 rifle, from a distance of about 25', striking Suspect Cuellar in the head. Deputy Erickson saw Suspect Cuellar fall to the ground. Deputies Moss and Hackett tactically approached Suspect Cuellar and quickly searched and handcuffed the suspect.

Deputy Erickson said Deputies Harrell and McCabe from Special Enforcement Bureau's (Emergency Services Detail) were requested and immediately responded from their fixed containment position to render aid to Suspect Cuellar. Suspect Cuellar was pronounced dead.

IAB Note: Refer to Exhibit A, pages 86-88, for Homicide Bureau's summary of Erickson's interview.

SUSPECT STATEMENTS:

No suspect statement, suspect was deceased.

DEPARTMENT WITNESS STATEMENTS:

Witness, Deputy Ralph Garay, #[redacted]was interviewed by Homicide Bureau Investigators Detectives Dameron Peyton and Kevin Lowe on February 6, 2006, at 1356 hours. Sergeant Greg

Key of Internal Affairs Bureau was present. The interview was recorded. The following is a summary of the interview.

Deputy Garay said that he came into work at approximately 0600 on February 6, 2006, he was told S.E.B. had been activated to a barricaded suspect in Pico Rivera's station area.

Deputy Garay said that upon his arrival, he was briefed as to the circumstances surrounding the barricaded suspect. He said he was told that the suspect was armed and in violation of a restraining order, possibly under the influence and threatening to kill himself or others if contacted. Deputy Garay said he was deployed as a containment and arrest unit. Deputy Garay said he was assigned to the, "Bearcat" (Armored Rescue Vehicle) along with Deputies Erickson, Moss and Hackett. Deputy Garay said he was given the task to give verbal commands and assist in hands on apprehension of the suspect. He and Deputies Erickson, Moss and Hackett took up a position behind their armored rescue vehicle along the east side of the trailer adjacent to the carport and driveway area. While in position, Deputy Garay said he received continuous updates from the command post and intelligence deputies on scene regarding the suspect's activities and behavior via radio. Deputy Hackett also said it appeared to him the suspect's behavior was becoming more erratic and desperate as the suspect was seen frantically moving about the trailer and continually rambling about killing or being killed.

Deputy Garay said he was aware that attempts were made via telephone and tape recorded announcements to order the suspect out of the home. Deputy Garay said he also yelled out orders to the suspect to surrender. The suspect did not come out of the mobile home and he fired several Arwen rounds into the mobile home while Deputy Moss deployed a light/sound diversionary device (flash-bang) in an effort to force Suspect Cuellar out of the mobile home. Suspect Cuellar refused to exit the residence. Deputy Garay said he and additional SEB personnel on containment introduced chemical agents through the windows of the location causing Suspect Cuellar to exit the east door of the mobile home.

Deputy Garay said Suspect Cuellar walked toward them, he could see that he was holding a portable telephone in his left hand and his other hand was held up around his shoulder area. Garay said he heard Suspect Cuellar yell out incoherently, "your trying to kill me" or "kill me." Deputy Garay said he and Deputies Erickson, Moss and Hackett were positioned in the street behind their armored vehicle, as cover, along the south/east corner of the mobile home. Garay said as Suspect Cuellar walked back and forth within the driveway area, Deputy Garay called to Suspect Cuellar to walk forward with his hands up. Suspect Cuellar disregarded the commands and appeared to turn toward the door to re-enter. In an effort to keep Suspect Cuellar outside of the trailer, Deputy Moss deployed less than lethal Arwen rounds at Suspect Cuellar, striking him several times. Deputy Moss was shooting from over the hood of the armored vehicle, exposing his upper torso. Deputy Garay said he moved partially away from the front of their armored vehicle, and out from cover, to deploy a light/sound diversionary device in the carport area. He said his thoughts were to lob the device over the head of Suspect Cuellar, using the device to push the suspect toward the street. In order to deploy the device, Deputy Garay said he had to expose a substantial portion of his body to Suspect Cuellar. Deputy Erickson was covering Deputies Garay and Moss as they deployed their weapons. Suspect Cuellar walked toward the southern edge of the driveway and quickly turned away from them, going down to a crouched position.

Deputy Garay said that he was in a throwing motion when he saw Suspect Cuellar turn and reach into his waistband. Garay said he saw Suspect Cuellar aggressively reach deep into his waistband and tug at an object. Suspect Cuellar made three to four deliberate tugging motions wherein Deputy Garay said, "it was not if he had a gun, it was he was getting his gun." Deputy Garay said he felt, "he couldn't get out of the way fast enough." Deputy Garay turned and ducked behind the armored vehicle for cover. He said the Arwen rounds and light/sound device were sounding simultaneously, so he was unaware that a gun shot had been fired. When he armed himself and looked back at Suspect Cuellar, he saw Cuellar was down in the carport area. Deputies Moss and Hackett approached Suspect Cuellar and quickly searched and handcuffed the suspect. Deputy Garay said he saw Suspect Cuellar was bleeding from a head wound. Deputies Harrell and McCabe from Special Enforcement Bureau's (Emergency Services Detail) immediately responded from their fixed containment position to render aid to Suspect Cuellar and pronounced him dead.

IAB Note: Refer to Exhibit A, pages 88-89 for a copy of Homicide Bureau's summary of Deputy Garay's interview.

Witness, Deputy James Moss, #[redacted] was interviewed by Homicide Bureau Detectives Dameron Peyton and Kevin Lowe on February 6, 2006, at 1435 hours. Sergeant Greg Key of Internal Affairs Bureau was present. The interview was recorded. The following is a summary of the interview.

Deputy Moss said when he arrived at SEB on February 6, 2006, at about 0600 hours, he was informed his team had been activated to a barricaded suspect in Pico Rivera's station area.

Deputy Moss said that upon his arrival at the command post, he was briefed, and assigned to a containment and arrest team. Deputy Moss said he was assigned to the, "Bearcat" (Armored Rescue Vehicle) along with Deputies Erickson, Garay and Hackett. Deputy Moss was assigned to the Arwen, Deputy Erickson was assigned as the designated shooter, Deputy Garay was to give verbal commands and assist in hands on apprehension of the suspect, and Deputy Hackett was assigned to cover and assist in hands on apprehension of the suspect. They took up a position behind their armored rescue vehicle adjacent to the driveway and carport area. While in position, Deputy Moss was continually getting updates from the command post and intelligence deputies on scene regarding the suspect's activities and behavior via radio. It appeared that the suspect's behavior was becoming more erratic as he was seen frantically moving about the trailer and continually rambling about killing or being killed.

Attempts were made via telephone, taped announcements and Deputy Garay to verbally order the suspect to exit the residence. Their efforts were met with negative results. Members of SEB, Deputies Moss and Garay utilized less than lethal weapons and a light/sound diversionary device in an effort to force Suspect Cuellar out of the trailer so that he could be detained. Suspect Cuellar refused to exit the residence. Deputy Garay and members of SEB introduced chemical agents through windows of the location causing Suspect Cuellar to exit the east side of the trailer.

Deputy Moss said as Suspect Cuellar walked toward them, he could see that he was holding a portable telephone in one hand and his other hand was raised. Suspect Cuellar walked toward him and

Deputies Erickson, Garay, and Hackett, who were positioned in the street behind their armored rescue vehicle, adjacent to the driveway and carport area. As Suspect Cuellar walked back and forth within the driveway area, Deputy Garay called to Suspect Cuellar to walk forward with his hands up. Suspect Cuellar ignored the commands and appeared to turn toward the trailer to re-enter. In an effort to keep Suspect Cuellar outside of the trailer, Deputy Moss said he fired several less than lethal Arwen rounds at Suspect Cuellar, striking him. Deputy Moss said he shot over the hood of the armored vehicle, exposing his upper torso. Deputy Moss said he saw Deputy Garay move partially away from the front of their armored vehicle to deploy a light/sound diversionary device (flash-bang) in the carport area. Deputy Moss said Deputy Erickson was covering he and Deputies Garay as Suspect Cuellar walked toward the southern edge of the driveway. Deputy Moss said Suspect Cuellar quickly turned away from them and kneeled in a crouched position. As the suspect turned, Deputy Moss saw the suspect reach into and tug deeply into his waistband area. Deputy Moss said he believed the suspect was attempting to retrieve a weapon. Deputy Moss said that he felt he was going to be shot and continued firing the remaining Arwen rounds at Suspect Cuellar until he exhausted his launcher. Deputy Moss said he saw Suspect Cuellar go down bleeding from a head wound. He approached Suspect Cuellar with Deputy Hackett and quickly searched and handcuffed the suspect. Deputies Harrell and McCabe from Special Enforcement Bureau's (Emergency Services Detail) immediately responded from their fixed containment position to render aid to Suspect Cuellar. Suspect Cuellar was pronounced dead by the ESD deputies.

IAB Note: Refer to Exhibit A, pages 89-91 for a copy of Homicide Bureau's summary of Moss' interview.

Witness, Deputy Clipper Hackett, [redacted] was interviewed by Homicide Bureau Detectives Dameron Peyton and Kevin Lowe on February 6, 2006, at 1500 hours. Sergeant Greg Key of Internal Affairs Bureau was present. The interview was recorded. The following is a summary of the interview.

Deputy Hackett said when he came into work at approximately 0600 on February 6, 2006, he was informed by SEB desk personnel there was a barricaded suspect in the Pico Rivera area.

Deputy Hackett said when he arrived, he was briefed as to the series of events leading up to the request for SEB. He said he was told that the suspect was armed with a handgun and in violation of a restraining order, possibly under the influence, and threatening to kill himself or others if contacted. Deputy Hackett said he was deployed by the primary handling unit as a containment and arrest unit. Deputy Hackett said he was assigned to the, "Bearcat" (Armored Rescue Vehicle) along with Deputies Erickson, Garay and Moss. Hackett said each deputy had a specific task and mission as it related to the situation. Deputy Hackett said he was assigned to cover and assist in the apprehension of the. Hackett said he took up a position behind the armored rescue vehicle along the east side of the trailer adjacent to the driveway and carport area. While in position, Deputy Hackett said he heard several updates from the command post and intelligence deputies on scene regarding the suspect's activities and behavior, via radio. Deputy Hackett said it appeared the suspect's behavior was becoming more erratic as he was reportedly seen frantically moving about the trailer and continually

rambling about killing or being killed.

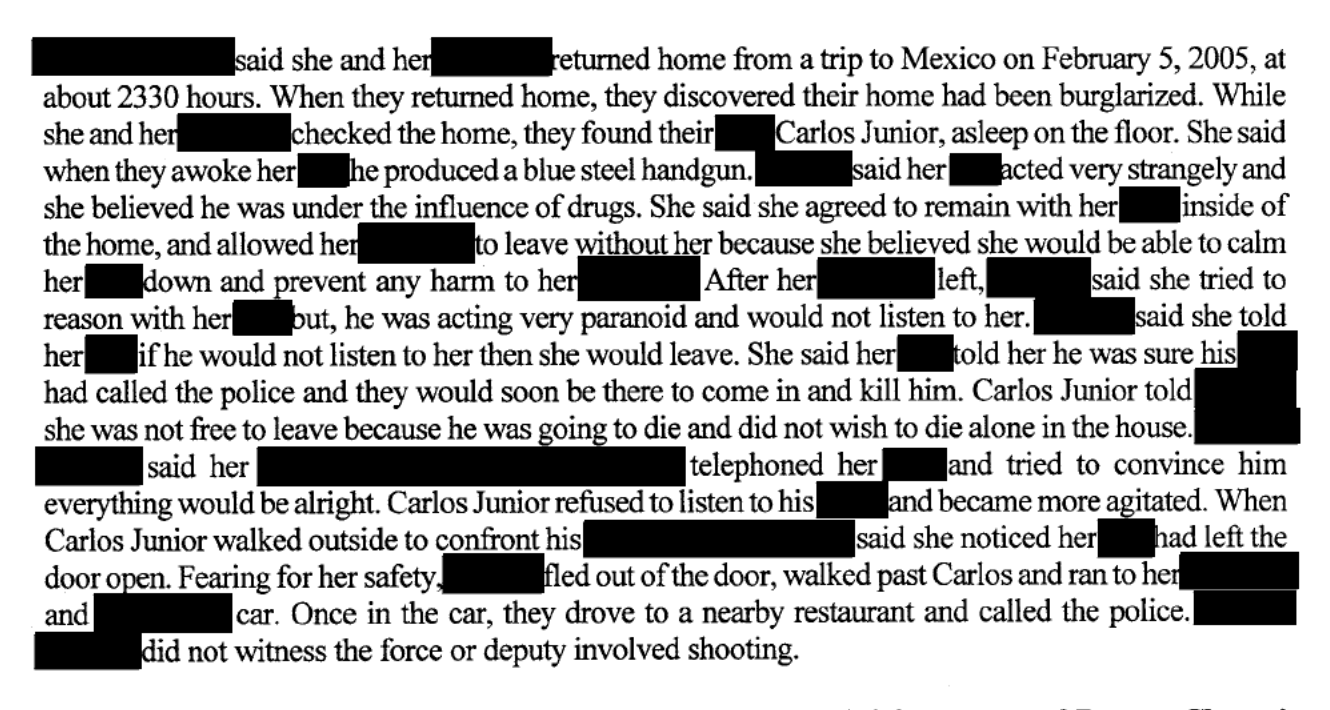
Deputy Hackett said there were several attempts made via telephone, taped announcements and he heard Deputy Garay verbally ordered the suspect to exit the residence. All the efforts failed to force the suspect to exit the residence. Deputy Hackett said they were given a mission to deploy tear gas into the suspect's location. Hackett said other SEB team members, Deputies Garay and Moss deployed less than lethal weapons (Arwen) and a light/sound diversionary device (flash-bang) into the residence in an effort to force Suspect Cuellar out of the mobile home in an effort to arrest Suspect Cuellar; Suspect Cuellar refused to exit the residence. Deputy Hackett said Deputy Garay and members of SEB introduced chemical agents through the windows of the location. The tear gas caused Suspect Cuellar to exit the east side of the trailer.

Deputy Hackett said as Suspect Cuellar walked toward them, Hackett could see that Cuellar was holding a portable telephone in one hand and held his other hand up in the air. Deputy Hackett said he had to move from the rear of the armored vehicle to the hood area along with Deputies Erickson, Moss and Garay, maintaining cover. He said he saw Suspect Cuellar walk toward them. As Suspect Cuellar walked back and forth within the driveway and carport area, Deputy Hackett said he heard Deputy Garay call out to Suspect Cuellar to walk forward with his hands up. Suspect Cuellar disregarded the commands and appeared to turn toward the trailer to re-enter. Hackett said he saw Deputy Moss deployed less than lethal Arwen rounds over the hood of the armored vehicle, exposing his upper torso. Hackett saw Deputy Garay move partially away from the front of their armored vehicle to deploy a light/sound diversionary device in the carport area. Deputy Hackett said in order to deploy the device, Deputy Garay had to expose a substantial portion of his body to Suspect Cuellar. Deputy Hackett said he moved to better cover Deputies Garay and Moss. Suspect Cuellar walked toward the southern edge of the driveway and quickly turned away from them and went down to a crouched position. As he turned, Deputy Hackett said he saw Suspect Cuellar aggressively reaching deeply into his waistband in an apparent effort to retrieve a weapon. Deputy Hackett said that he believed Suspect Cuellar was retrieving a gun. Deputy Hackett held his position and saw Suspect Cuellar fall to the ground. Deputy Hackett said that he did not hear the gun shot during the incident. Deputy Hackett approached Suspect Cuellar with Deputy Moss to search and handcuff the suspect. Deputy Hackett said he saw Suspect Cuellar was bleeding from a head wound. Deputies Harrell and McCabe from Special Enforcement Bureau's (Emergency Services Detail) immediately responded from their containment position to render aid to Suspect Cuellar; Suspect Cuellar was pronounced dead.

> **IAB Note: Refer to Exhibit A, pages 91-92 for a copy of Homicide Bureau's summary of Hackett's interview.**

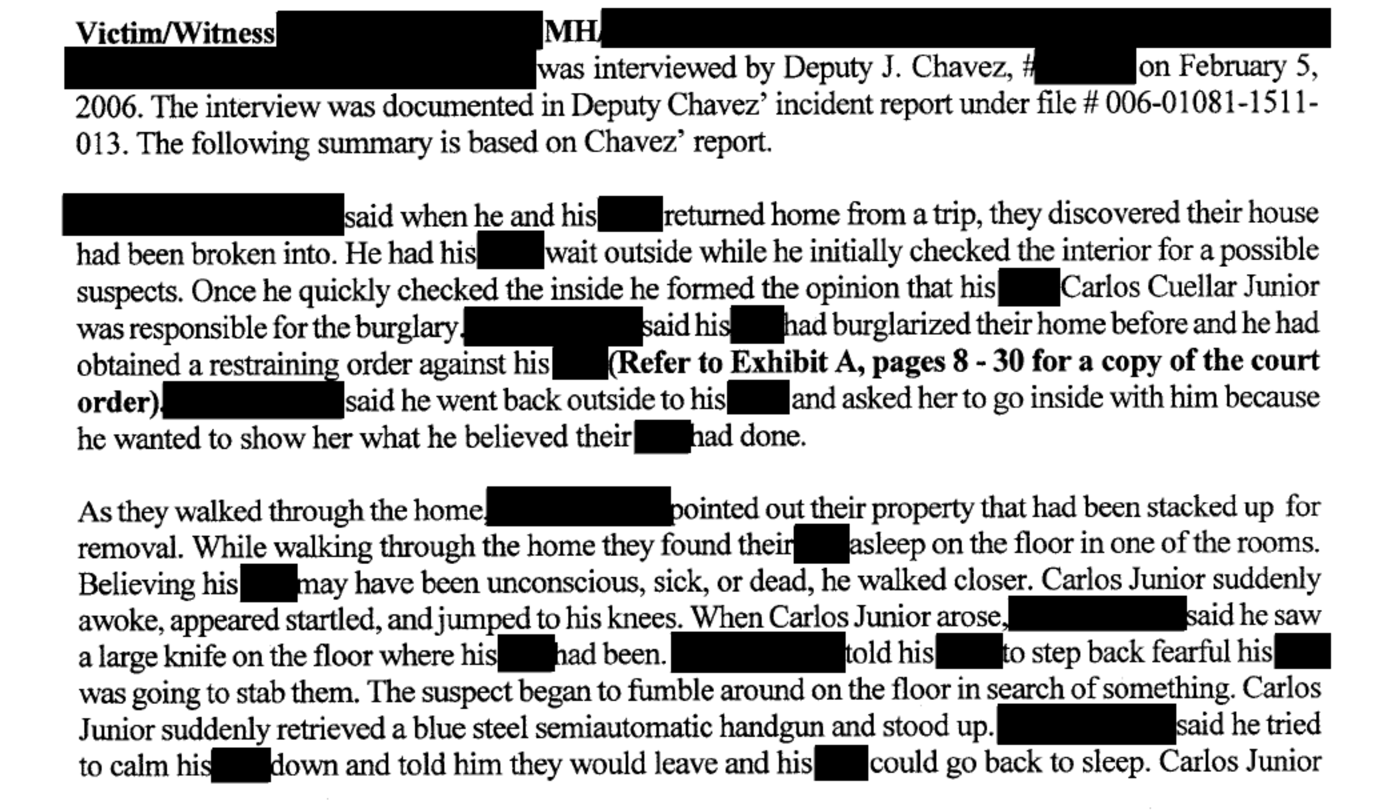
NON-DEPARTMENT WITNESSES:

Victim/Witness [redacted] **FH/**[redacted] was interviewed by Deputy J.Chavez, #[redacted] on February 5, 2006. The interview was documented in Deputy Chavez' incident report under file # 006-01081-1511-013. The following summary is based on Chavez' report.

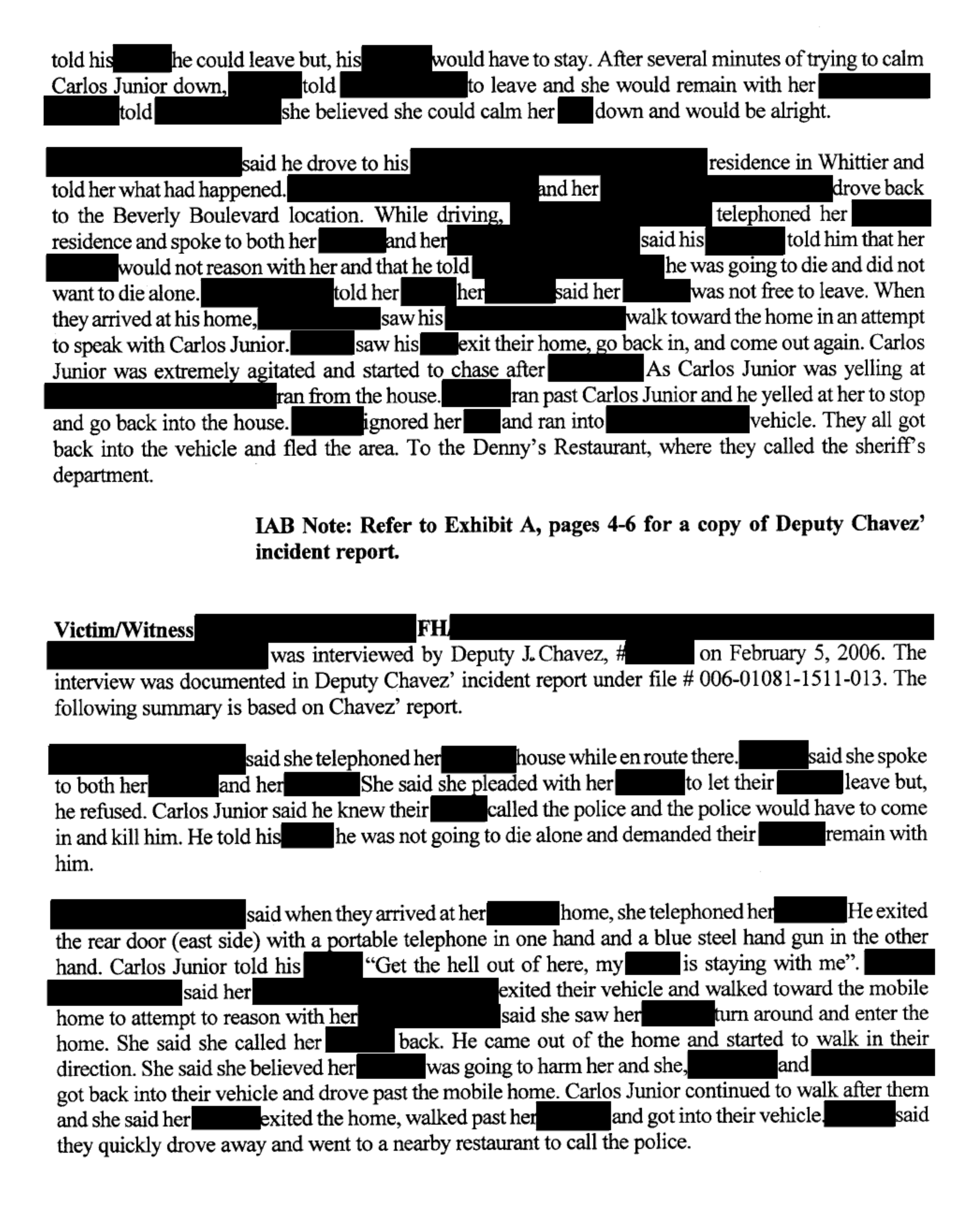

[redacted] said she and her [redacted] returned home from a trip to Mexico on February 5, 2005, at about 2330 hours. When they returned home, they discovered their home had been burglarized. While she and her [redacted] checked the home, they found their [redacted] Carlos Junior, asleep on the floor. She said when they awoke her [redacted] he produced a blue steel handgun. [redacted] said her [redacted] acted very strangely and she believed he was under the influence of drugs. She said she agreed to remain with her [redacted] inside of the home, and allowed her [redacted] to leave without her because she believed she would be able to calm her [redacted] down and prevent any harm to her [redacted] After her [redacted] left, [redacted] said she tried to reason with her [redacted] but, he was acting very paranoid and would not listen to her. [redacted] said she told her [redacted] if he would not listen to her then she would leave. She said her [redacted] told her he was sure his [redacted] had called the police and they would soon be there to come in and kill him. Carlos Junior told [redacted] she was not free to leave because he was going to die and did not wish to die alone in the house. [redacted] said her [redacted] telephoned her [redacted] and tried to convince him everything would be alright. Carlos Junior refused to listen to his [redacted] and became more agitated. When Carlos Junior walked outside to confront his [redacted] said she noticed her [redacted] had left the door open. Fearing for her safety, [redacted] fled out of the door, walked past Carlos and ran to her [redacted] and [redacted] car. Once in the car, they drove to a nearby restaurant and called the police. [redacted] did not witness the force or deputy involved shooting.

IAB Note: Refer to Exhibit A, pages 4-6 for a copy of Deputy Chavez' incident report.

Victim/Witness [redacted] **MH** [redacted] was interviewed by Deputy J. Chavez, # [redacted] on February 5, 2006. The interview was documented in Deputy Chavez' incident report under file # 006-01081-1511-013. The following summary is based on Chavez' report.


[redacted] said when he and his [redacted] returned home from a trip, they discovered their house had been broken into. He had his [redacted] wait outside while he initially checked the interior for a possible suspects. Once he quickly checked the inside he formed the opinion that his [redacted] Carlos Cuellar Junior was responsible for the burglary. [redacted] said his [redacted] had burglarized their home before and he had obtained a restraining order against his [redacted] **(Refer to Exhibit A, pages 8 - 30 for a copy of the court order)**. [redacted] said he went back outside to his [redacted] and asked her to go inside with him because he wanted to show her what he believed their [redacted] had done.

As they walked through the home, [redacted] pointed out their property that had been stacked up for removal. While walking through the home they found their [redacted] asleep on the floor in one of the rooms. Believing his [redacted] may have been unconscious, sick, or dead, he walked closer. Carlos Junior suddenly awoke, appeared startled, and jumped to his knees. When Carlos Junior arose, [redacted] said he saw a large knife on the floor where his [redacted] had been. [redacted] told his [redacted] to step back fearful his [redacted] was going to stab them. The suspect began to fumble around on the floor in search of something. Carlos Junior suddenly retrieved a blue steel semiautomatic handgun and stood up. [redacted] said he tried to calm his [redacted] down and told him they would leave and his [redacted] could go back to sleep. Carlos Junior



told his [redacted] he could leave but, his [redacted] would have to stay. After several minutes of trying to calm Carlos Junior down, [redacted] told [redacted] to leave and she would remain with her [redacted] told [redacted] she believed she could calm her [redacted] down and would be alright.

[redacted] said he drove to his [redacted] residence in Whittier and told her what had happened. [redacted] and her [redacted] drove back to the Beverly Boulevard location. While driving, [redacted] telephoned her [redacted] residence and spoke to both her [redacted] and her [redacted] said his [redacted] told him that her [redacted] would not reason with her and that he told [redacted] he was going to die and did not want to die alone. [redacted] told her [redacted] her [redacted] said her [redacted] was not free to leave. When they arrived at his home, [redacted] saw his [redacted] walk toward the home in an attempt to speak with Carlos Junior. [redacted] saw his [redacted] exit their home, go back in, and come out again. Carlos Junior was extremely agitated and started to chase after [redacted] As Carlos Junior was yelling at [redacted] ran from the house. [redacted] ran past Carlos Junior and he yelled at her to stop and go back into the house. [redacted] ignored her [redacted] and ran into [redacted] vehicle. They all got back into the vehicle and fled the area. To the Denny's Restaurant, where they called the sheriff's department.

IAB Note: Refer to Exhibit A, pages 4-6 for a copy of Deputy Chavez' incident report.

Victim/Witness [redacted] FH/ [redacted]

[redacted] was interviewed by Deputy J. Chavez, # [redacted] on February 5, 2006. The interview was documented in Deputy Chavez' incident report under file # 006-01081-1511-013. The following summary is based on Chavez' report.

[redacted] said she telephoned her [redacted] house while en route there. [redacted] said she spoke to both her [redacted] and her [redacted] She said she pleaded with her [redacted] to let their [redacted] leave but, he refused. Carlos Junior said he knew their [redacted] called the police and the police would have to come in and kill him. He told his [redacted] he was not going to die alone and demanded their [redacted] remain with him.

[redacted] said when they arrived at her [redacted] home, she telephoned her [redacted] He exited the rear door (east side) with a portable telephone in one hand and a blue steel hand gun in the other hand. Carlos Junior told his [redacted] "Get the hell out of here, my [redacted] is staying with me". [redacted] said her [redacted] exited their vehicle and walked toward the mobile home to attempt to reason with her [redacted] said she saw her [redacted] turn around and enter the home. She said she called her [redacted] back. He came out of the home and started to walk in their direction. She said she believed her [redacted] was going to harm her and she, [redacted] and [redacted] got back into their vehicle and drove past the mobile home. Carlos Junior continued to walk after them and she said her [redacted] exited the home, walked past her [redacted] and got into their vehicle. [redacted] said they quickly drove away and went to a nearby restaurant to call the police.

IAB Note: Refer to Exhibit A, pages 4-6 for a copy of Deputy Chavez' incident report.

Victim/Witness [redacted] MH [redacted] was interviewed by Deputy J. Chavez, #[redacted] on February 5, 2006. The interview was documented in Deputy Chavez' incident report under file # 006-01081-1511-013. The following summary is based on Chavez' report.

[redacted] provided the same account of the incident. He did say he was in fear for his life when Carlos Junior came out of the home with the hand gun and walked toward him.

IAB Note: Refer to Exhibit A, pages 4-6 for a copy of Deputy Chavez' incident report.

IAB Note: None of the witnesses witnessed the deputy involved shooting. They were escorted to the command post to provide intelligence concerning the location, suspect, and background.

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator:	Homicide Bureau Detectives Peyton and Lowe
Court:	N/A
Charges Filed:	No charges filed.
Court Date:	N/A
Plea/Conviction:	N/A
Sentence:	N/A

PROPERTY DAMAGE:

[redacted] sustained damage to the windows from the introduction of tear gas, Arwen rounds, and flash-bang diversion devices. The interior of the mobile home sustained considerable tear gas contamination. There was no damage to the surrounding mobile homes or structures.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

September 26, 2006

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 06-0075
L.A.S.D. File No. 006-01081-1511-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 6, 2006, fatal shooting of Carlos Humberto Cuellar, Jr. by Los Angeles County Sheriff's Deputy Robert Erickson. We have concluded that the deputy acted lawfully in self-defense and in the defense of others.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department submitted to this office by Detective Dameron Peyton and Detective Kevin Lowe on July 11, 2006. The District Attorney Command Center was notified of the shooting at approximately 10:15 a.m. on February 6, 2006. The District Attorney Response Team, comprised of Deputy District Attorney Renee Cartaya and District Attorney Senior Investigator [redacted] responded to the scene. We were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. Voluntary statements were considered as a part of this analysis.

FACTUAL ANALYSIS

On February 6, 2006 at approximately 6:30 a.m., Special Enforcement Bureau (SEB) Deputies were dispatched to Villa Nova Mobile Home Park at [redacted] Beverly Boulevard in Pico Rivera. SEB members responded to an incident involving a barricaded suspect with a gun. The Crisis Negotiation Team also responded to the location and made telephonic contact with the barricaded suspect, Carlos Humberto Cuellar, Jr. During the

negotiations, Cuellar, Jr. was manic and suicidal. He threatened to harm anyone entering the trailer and to set the trailer on fire.

The negotiations ended when Cuellar, Jr. became agitated and irrational and SEB took control of the situation at approximately 8:13 a.m.

SEB deputies were advised that Cuellar, Jr. had barricaded himself inside the trailer and was armed with a handgun. Deputies were also advised that Cuellar, Jr. was under the influence of methamphetamines and was not willing to surrender. Cuellar, Jr. had indicated that he wanted to die and would fight anybody who came into the trailer after him.

The entry team ordered Cuellar, Jr. to come out with his hands up. At this point, the deployment of a diversion device was implemented but Cuellar, Jr. failed to respond. Tear gas was deployed into the trailer through the northeast window, the south window and the bathroom window. Approximately one to two minutes later, the deputies observed Cuellar, Jr. exiting the trailer from the side door.

Cuellar, Jr. walked toward Deputies Erickson, Ralph Garay, James Moss and Clipper Hackett who were positioned behind their armored rescue vehicle in front of the trailer. Cuellar, Jr. began walking back and forth in the carport area. Garay ordered Cuellar, Jr. to walk forward with his hands up. Cuellar, Jr. ignored Garay's commands and turned back toward the trailer. In an attempt to keep Cuellar, Jr. from reentering the trailer, Moss fired Arwen[1] rounds at Cuellar, Jr. and Garay deployed a light/sound diversionary device to force Cuellar, Jr. away from the trailer door. Erickson covered Garay and Moss as they deployed the non-lethal weapons.

Deputy Erickson saw Cuellar, Jr. walk to the southern edge of the driveway and quickly turn away in a crouched position. As Cuellar, Jr. turned he reached into his waistband and tugged at an object as if he was trying to retrieve a weapon. In fear that he or his partners would be killed, Erickson fired one round from his M4/M16 rifle, striking Cuellar, Jr. Cuellar, Jr. fell to the ground. Deputies Moss and Hackett approached and handcuffed Cuellar, Jr. Deputies James Harrell and Larry McCabe of SEB's Emergency Services Detail responded and pronounced Cuellar, Jr. dead at 9:51 a.m.

Investigators recovered a .223 caliber shell casing from under the armored vehicle. They also observed numerous pieces of tear gas projectiles and Arwen round impact sites on the east side of the trailer. Investigators searched the trailer and recovered a replica Beretta model 92F pellet gun and a serrated edged knife approximately ten and a half inches in length.

Investigators interviewed [redacted] who resides at [redacted] with his [redacted] They returned home at approximately 11:30 p.m. on

[1] A non-lethal weapon used by SEB which deploys a pellet.

February 5, 2006 from a trip to Mexico. [redacted] noticed a window screen had been removed from one of the trailer's windows. Believing that he had been burglarized, he asked his [redacted] to remain in the car while he checked the residence. He noticed that the television had been moved and its cord was wrapped around it. He and his [redacted] entered the trailer together after he conducted a check of the trailer. As the two of them walked through the trailer, he saw his [redacted] Carlos Jr., sleeping face down on the floor. He believed his [redacted] was dead because he was not moving. [redacted] stepped toward his [redacted] and suddenly Cuellar, Jr. jumped to his knees.

[redacted] saw a large knife underneath his [redacted] Fearing his [redacted] would stab him or his [redacted] he told his [redacted] to get back. Cuellar, Jr. quickly got to his feet and was holding a blue-steel semi-automatic handgun in his right hand. Fearing for their safety, he told his [redacted] to be calm and go back to sleep. [redacted] told him to stay there and that he and his [redacted] would leave. Cuellar, Jr. told his [redacted] "You can leave, but my [redacted] has to stay." [redacted] pleaded with his [redacted] to let them both leave. Cuellar, Jr. refused and said that only his [redacted] could leave. [redacted] told his [redacted] that if he did not let his [redacted] leave he would call the police. Cuellar, Jr. then ran to the front door and began looking out the windows as if someone was outside. [redacted] recognized that his [redacted] was under the influence of a controlled substance and was acting irrationally.

[redacted] remained in the trailer with her [redacted] when her [redacted] went to get help. [redacted] drove to his [redacted] house. She and her [redacted] drove back to [redacted] home.

[redacted] indicated that while enroute to her [redacted] home she called her [redacted] several times. She pleaded with him to release her [redacted] but he refused. He said, "I know my [redacted] called the police and they are going to have to come in here and kill me. I'm not going to die alone so my [redacted] has to stay here with me." When they arrived at the trailer, Cuellar, Jr. came out the rear door holding a handgun in his right hand. He yelled for them to leave, and indicated that his [redacted] was staying with him. [redacted] walked toward the trailer and pleaded with Cuellar, Jr. to release his [redacted] Cuellar, Jr. walked back to the trailer. [redacted] called again and Cuellar, Jr. exited the trailer a second time and began walking toward them. Fearing for their safety, they entered their vehicle and drove past the location.

[redacted] walked out of the trailer and walked toward her [redacted] grabbed her [redacted] put her in their truck and drove to Denny's Restaurant. From the restaurant, they called the police.

[redacted] stated that she remained with her [redacted] because she was afraid that he would harm her [redacted] When her [redacted] left she tried to reason with her [redacted] He refused to let her leave. Cuellar, Jr. indicated that the police were going to kill him and he was not going to die alone. The last time that her [redacted] walked out to confront his [redacted] she decided to walk out and take her chances. As she walked past him, he made

numerous commands directing her to return. She ignored him and walked until she reached her [redacted] and her [redacted]

At the time of this incident, Cuellar, Jr. was on [redacted] A warrant (WH0206201) had been issued for his arrest for a violation for 422.

Deputy Medical Examiner James Ribe, M.D., concluded Cuellar, Jr. died as result of a through-and-through high velocity gunshot wound to the head. Dr. Ribe also noted two black contusion-abrasions on the body's chest which were consistent with non-lethal projectile injuries sustained ante mortem. Toxicology reports also revealed the presence of cocaine, methamphetamine, and marijuana in Cuellar, Jr.'s system.

CONCLUSION

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. People v Williams (1977) 75 Cal. App.3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. Judicial Council of California Criminal Jury Instructions-3470.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation. Graham v. Conner (1989) 490 US 386, 396-397.

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v Collins (1961) 189 Cal. App.2d 575.

The evidence gathered in this investigation shows that Cuellar, Jr. was armed with what appeared to be a firearm and had barricaded himself in his [redacted] trailer. Cuellar, Jr. ignored repeated requests to exit the trailer. Finally, after tear gas was deployed, Cuellar Jr. exited the trailer but refused to follow the deputies' commands. Instead, he turned his torso away from the deputies and reached into his waistband area as if to retrieve a gun. Fearing for his safety and the safety of his colleagues, Deputy Erickson fired one round striking Cuellar Jr. in the head.

We conclude that Deputy Erickson was confronted with the appearance of imminent danger and acted reasonably and lawfully in self-defense and defense of others when he used deadly force against Carlos Cuellar, Jr. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

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Deputy District Attorney
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c: Deputy Robert Erickson, serial [redacted]